

**DECLARATION OF COVENANTS  
AND RESTRICTIONS**

THIS DECLARATION, made this 5th day of February, A.D. 1982, by THE WRITER CORPORATION, hereinafter called the developer or the declarant,

**WITNESSETH:**

Whereas, Developer is the Owner of the real property described in Article II of this Declaration and desires to create thereon a residential community with permanent parks, playgrounds, open spaces, and other Common Facilities for the benefit of said community; and

Whereas, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and other Common Facilities; and to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each Owner thereof; and

Whereas, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the Covenants and Restrictions and collecting and disbursing the assessments and charges hereinafter created; and

Whereas, Developer has incorporated under the laws of the State of Colorado, as a non-profit corporation, SOUTHPARK HOMEOWNERS ASSOCIATION NUMBER 2 for the purpose of exercising the functions of the aforesaid:

Now therefore, the Developer declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

**ARTICLE I**  
**DEFINITIONS**

SECTION 1. The following words when used in the Declaration or any supplemental declaration

(unless the context shall prohibit) shall have the following meanings:

A. "Association" shall mean and refer to SOUTHPARK HOMEOWNERS ASSOCIATION NUMBER 2, its successors and assigns.

B. "The Properties" shall mean and refer to all such properties as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.

C. "Common Properties" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Properties to be owned by the Association at the time of the conveyance of the first Lot is described as follows: TRACTS A AND B, BLOCK 1, SOUTHPARK SUBDIVISION, FILING NUMBER 7, City of Littleton, County of Arapahoe, State of Colorado.

D. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of Common Properties and heretofore defined.

E. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, or a fee simple title to any Lot which is a part of the properties including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

F. "Member" shall mean and refer to every person or entity who holds membership in the Association.

G. "Developer" shall mean and refer to The Writer Corporation, its

successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from developer for the purpose of development.

H. "Architectural Control Committee" shall mean the Committee appointed

by the Board of Directors of the  
SOUTHPARK HOMEOWNERS ASSOCI-  
ATION NUMBER 2.

**ARTICLE II  
PROPERTY SUBJECT  
TO THIS DECLARATION**

SECTION 1. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County of ARAPAHOE, CITY OF LITTLETON, State of Colorado, and is more particularly described in Exhibit A which is attached hereto and made a part hereof, all of which real property shall hereinafter be referred to as "The Properties".

**ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS  
IN THE ASSOCIATION**

SECTION 1. **Membership.** Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

SECTION 2. **Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A Members shall be all those Owners as defined in Section 1, Article III with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1, Article III. When more than one person holds such interest or interests in any Lot all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves

determine, but in no event shall more than one vote be cast with respect to any such Lot.

**Class B.** The Class B Member shall be the Developer. The Class B Member shall be entitled to three votes for each Lot in which it holds the interest required for membership by Section 1, Article III, PROVIDED THAT the Class B Membership on the happening of either of the following events, whichever occurs earlier:

- A. When the total votes outstanding in the Class A Membership equal the total votes outstanding in the Class B Membership, or
- B. **JUNE 1, 1992**

**ARTICLE IV  
ANNEXATION OF ADDITIONAL  
PROPERTIES**

SECTION 1. Annexation of additional property shall require the assent of two-thirds (2/3) of the Class A Members and two-thirds (2/3) of the Class B Members if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

SECTION 2. If within ten (10) years of the date of the incorporation of this Association, the Developer should develop additional lands within the area described on Exhibit B which is attached hereto and made a part hereof, such additional lands may be annexed to said properties without the assent of the Class A Members, and said lands on the Date of Annexation shall be deemed a part of the Properties, PROVIDED, HOWEVER, that the development of the additional lands described on Exhibit B shall be in accordance with a general plan submitted to The Federal Housing Administration or Veterans Administration with the processing papers of the first section. Detailed plans for the development of additional lands must be submitted to the Federal Housing Administration or the Veterans Administration prior to such development. If the Federal Housing Administration or Veterans Administration determine that such detailed plans are not in accordance with the general plan on file, the development of the additional lands must have the assent of two-thirds (2/3) of each class of Members, in accordance with Section 1 of this Article IV.

**ARTICLE V  
PROPERTY RIGHTS  
IN THE COMMON PROPERTIES**

SECTION 1. **Members' Easements of Enjoyment.** Subject to provisions of Section 3 of this Article, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot;

SECTION 2. **Title to Common Properties.** The Developer agrees to convey title to the Common Properties to the Association free and clear of all liens and encumbrances prior to the conveyance of any Lot described on Attached Exhibit A.

SECTION 3. **Extent of Members' Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

A. The right of the Association, as provided in its Certificate of Incorporation and By-Laws, to suspend the voting rights and right to use of recreational facilities by a Member for any period during which any assessment

remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations and

B. The Right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be

effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of Each Class of Membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken.

C. The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and facilities and in aid thereof to mortgage said Common Properties and the rights of such mortgagee in said Common Properties shall be subordinate to the rights of the Members hereunder.

SECTION 4. Any Member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Properties to his tenants, or contract purchasers who reside on the property.

**ARTICLE VI  
COVENANT FOR  
MAINTENANCE ASSESSMENTS**

SECTION 1. **Creation of Lien and Personal Obligation of Assessments and Special Assessments.** Declarant for each Lot owned within the Properties shall be deemed to covenant and agree, and each Owner of any Lot, except those exempt under Section 11 of this Article, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association monthly assessments or charges and special assessments, together with such interest thereon and costs of collection thereof as herein-  
after provided, and said amounts shall be a charge on the land and shall be a

continuing lien upon the property against which each such assessment or special assessment is made. Each such assessment and special assessment, together with such interest thereon, cost of collection and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment or special assessment fell due. The personal obligation for delinquent assessment or special assessment shall not pass to his successors in title unless expressly assumed by them.

**SECTION 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvement and maintenance of the Common Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the homes situated upon the properties.

**SECTION 3. Basis and Maximum of Annual Assessments.** The Board of Directors shall fix the monthly assessment within the maximum amount and may raise or lower said monthly assessment amount within said maximum as they may deem necessary in their discretion. The initial monthly assessment is established at \$45.00 for each Lot.

Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be \$80.00 per Lot.

From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be adjusted in conformance with the Consumer Price Index (CPI) published by the U.S. Department of Labor, specifically the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, All Items, unadjusted for seasonal variation. The maximum monthly assessment for any year shall be the amount determined by (a) taking the dollar amount specified above in the first sentence of this Section, (b) multiplying that amount by the published CPI number for the fourth month prior to the beginning of the subject year and (c) dividing that resultant by the published CPI number for the fourth month prior to the month in which this Declaration was signed by the Declarant.

**SECTION 4. Change in Basis and Maximum of Annual Assessments.** From and after January 1 of the year immediately following the conveyance of the first

Lot to an Owner, the maximum monthly assessment amount specified above in the first sentence of this Section and used in the above CPI adjustment formula may be changed by a vote of the members, provided that any such change shall have the assent of two-thirds (2/3) of the vote of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days not more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

**SECTION 5. Special Assessments for Capital Improvements.** In addition to the Annual Assessments authorized above, the Association may levy in any calendar year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, PROVIDED, THAT, any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

**SECTION 6. Uniform Rate of Assessment.** Both monthly and special assessments must be fixed at a uniform rate for all Lots, PROVIDED, THAT, the rate set for the LOTS owned by Developer including Show Homes/Model Areas, shall be fixed at ONE-THIRD (1/3) the assessment rate for the other Lots, unless occupied as a residence.

**SECTION 7. Quorum for any Action Authorized Under Sections 4 and 5.** The Quorum required for any Action Authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a Quorum. If the

required Quorum is not forthcoming at any meeting another meeting may be called, subject to the notice requirements set forth in Sections 4 and 5 and the required Quorum at any such subsequent meeting shall be one-half (1/2) of the required Quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**SECTION 8. Date of Commencement of Monthly Assessments: Due Dates.**

The monthly assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Properties. The Board of Directors shall fix the amount of the monthly assessment at least thirty (30) days in advance of said commencement date and any change in the monthly assessment must be fixed by the Board of Directors at least thirty (30) days in advance of the commencement of the changed assessment amount. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of the facts stated therein.

**SECTION 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner: The Lien: Remedies of The Association.**

If the assessments are not paid on the date when due (being the dates specified in Section 8 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquent date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a

judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney fees to be fixed by the court together with the costs of the action.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot.

**SECTION 10. Subordination of the Lien to Mortgages.** The Lien of the assessments provided for herein shall be subordinate to the Lien of any first mortgage and to any executory land sales contract owned by the Veterans Administration or its assigns, wherein the named Seller is the Administrator of Veterans Affairs, whether such contract is recorded or not. The lien of the assessment shall be superior to any Homestead Exemption now or hereafter provided by the laws of the State of Colorado, or the United States.

Sale or transfer of any Lot shall not affect the assessment liens. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**SECTION 11. Exempt Property.** The following property subject to the Declaration shall be exempt from the assessments, charges and liens created herein:

A. All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

B. All Common Properties as defined in Article 1, Section 1, hereof.

**SECTION 12. Special Water Charges.** Certain Lots within the Properties are served with domestic water, under a master meter, and as a result thereof, the use of said water is not individually metered nor billed to the Lot by the governmental entity supplying said water, but is billed, pursuant to a reading of the master meter, to the Association. Owners of all of said Lots shall be individually charged by the Association a monthly pro rata portion of the total domestic water used by Owners of said Lots plus three percent (3%) for collection and

administration. All monies received by the Association for this water charge shall be deposited in a separate Association Account to be held and

disbursed only for payment of water billings to the appropriate governmental entity.

**SECTION 13. Special Maintenance Charges.** Certain Lots within the properties have ingress and egress access on streets that are privately owned by the Association and are not public streets. Maintenance of these streets is the obligation of the Association; however, the Owners of said Lots shall be charged by the Association a quarterly charge not exceeding \$45.00 per quarter for the maintenance of said streets. All monies received by the Association for this maintenance charge shall be deposited in separate Association Account to be held and disbursed only for the maintenance of said private streets.

**SECTION 14. Creation of Lien and Personal Obligation for Charges.** Each Owner of any Lot mentioned in Sections 12 and 13 above, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association all charges set forth in Sections 12 and 13 above, together with such interest thereon and costs of collection thereof as hereinafter provided, and said amounts shall be a charge on the land and shall be a continuing lien upon the property against which each of said charges is made. Each said charge, together with interest thereon, cost of collection and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the said charges fell due. The personal obligation for delinquent charges shall not pass to his successors in title unless expressly assumed by them.

If the said charges are not paid within ten (10) days from the statement date, then such charge shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representative and assigns. The personal obligation of the then Owner to pay such charges, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the said charges are not paid within ten (10) days after the statement date, the

charges shall bear interest from the statement date at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of said charges the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney fees to be fixed by the court, together with the costs of the action.

No Owner may waive or otherwise escape liability for the charges provided in said Sections 12 and 13 by abandonment of his Lot.

**SECTION 15. Subordination of the Lien to Mortgages.** The lien of the charges provided for in Section 14 above shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the liens for said charges. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such charges as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any such charges thereafter becoming due or from the lien thereof.

**SECTION 16. Exempt Property.** All Lots owned by the Developer shall be exempt from the charges set forth in Sections 12 and 13 above and the liens created by Section 14, unless used as residence.

**SECTION 17. Special Maintenance Charge Increases.** From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the quarterly dollar limit of the special maintenance charge provided for in Section 13 above shall be adjusted in conformance with the Consumer Price Index (CPI) published by the U.S. Department of Labor, specifically the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, All Items, unadjusted for seasonal variation. The maximum charge for any year shall be the amount determined by (A) taking the dollar amount specified in Section 13 above, (B) multiplying that amount by the Published CPI Number for the fourth month prior to the beginning of the subject year and (C) dividing that resultant by The Published CPI Number for the fourth month prior to the month in which this Declaration was signed by the Declarant.

**ARTICLE VII  
PARTY WALLS**

SECTION 1. **General Rules of Law to Apply.** Each wall which is built as a part of the original construction of homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

SECTION 2. **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

SECTION 3. **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

SECTION 4. **Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

SECTION 5. **Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

SECTION 6. **Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

**ARTICLE VIII  
ARCHITECTURAL CONTROL  
COMMITTEE**

SECTION 1. **Review by Committee.** No structure, whether residence, accessory building, tennis court, swimming pool, antennae (on a structure or on a Lot), flagpoles, fences, walls, exterior lighting or other improvements, shall be constructed or maintained upon any Lot and no alteration or repainting to the exterior of a structure, with other than the original house paint colors, shall be made and no landscaping performed unless complete plans, specifications, and Lot plans therefore, showing the exterior design, height, building material and color scheme thereof, including paint manufacture and paint chip, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Architectural Control Committee, and a copy of such plans, specifications, and Lot plans as finally approved deposited with the Architectural Control Committee. When furnished, only those house numbers and mail boxes which are installed by the Developer shall be used and maintained in the properties. The Architectural Control Committee shall be composed of three or more Representatives appointed by the Board of Directors of The Association.

SECTION 2. The Architectural Control Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the properties conform to and harmonize with existing surroundings and structures.

SECTION 3. **Procedures.** The Architectural Control Committee shall approve or disapprove all plans and requests within thirty (30) days after submission. In the event the Architectural Control Committee fails to take any action within thirty (30) days after requests have been submitted, approval will not be required, and this article will be deemed to have been fully complied with.

SECTION 4. A Majority vote of the Architectural Control Committee is required for approval or disapproval of proposed improvements.

SECTION 5. The Architectural Control Committee shall maintain written records of all applications submitted to it and of all actions it may have taken.

SECTION 6. The Architectural Control Committee shall not be liable in damage to any person submitting requests for approval or to any Owner within the properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

#### **ARTICLE IX EXTERIOR MAINTENANCE**

SECTION 1. The Structures and Grounds of each Lot shall be maintained in a neat and attractive manner. Upon the Owner's failure to do so, the Architectural Control Committee may, at its option, after giving the Owner thirty (30) days written notice sent to his last known address, have the grass, weeds and vegetation cut when, and as often as, the same is necessary in its judgment, and have dead trees, shrubs and plants removed from any Lot.

SECTION 2. Upon the Owner's failure to maintain the exterior of any structure in good repair and appearance or to fail to landscape and maintain the grounds of any Lot in a neat and attractive manner, the Architectural Control Committee may, at its option, after giving the Owner six (6) months written notice, make repairs, improve the appearance and landscape in a reasonable and workmanlike manner.

SECTION 3. **Assessment of Cost.** The cost of such maintenance referred to in Sections 1 and 2 of this Article shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the monthly maintenance assessment or charge to which such Lot is subject under Article VI hereof.

SECTION 4. **Access at Reasonable Hours.** For the purpose solely of performing the maintenance referred to in Section 1 and 2 of this Article, the Association, through its duly Authorized Agents or Employees shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any business day.

**ARTICLE X  
COMMON SCHEME RESTRICTIONS**

The following restrictions are imposed as a common scheme upon Lot and Common Properties for the benefit of each other Lot and Common Properties, and may be enforced by any Owner of Lot or of the Common Properties.

No garbage, refuse, rubbish, or cuttings shall be deposited on any street, road, or Common Properties, and not on any Lot unless placed in a suitable container which is suitably located.

No building material of any kind or character shall be placed upon any Lot except in connection with construction approved as hereinafter provided. As soon as building materials are placed on any Lot in such connections, construction shall be promptly commenced and diligently prosecuted.

No clotheslines, drying yards, service yards, woodpiles or storage areas shall be so located as to be visible from a street, road or Common Properties.

Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to disturb the residents of the adjacent property.

Ornamental post lights shall be designed to be in keeping with the lighting fixtures at the street or road corners.

No animals or poultry shall be kept on any Lot within the properties except ordinary household pets belonging to the household. Only signs advertising the sale or rental of a Lot and which are approved by the Architectural Control Committee shall be allowed in the Properties.

No used or previously erected or temporary house, structure, house trailer or non-permanent out-building shall ever be placed, erected or allowed to remain on any Lot within the Properties except during construction.

Boats, trailers, trucks, campers or commercial vehicles shall not be parked or maintained in the Properties; however, this restriction shall not restrict trucks or commercial vehicles making pickups or deliveries to or in the Properties, nor shall this restriction restrict trucks or commercial vehicles within the Properties which are necessary for the construction of residential dwellings or maintenance of the Common Properties.

None of the Lots may be improved, used or occupied for other than private single family residential purposes, other than the Common Properties; however, the Developer or Declarant may use one or more Lots for temporary office building, and use the same as an office during the development and sale of Lots.

No structure shall be built upon any Lot that exceeds a height of thirty-five (35) feet.

The exterior colors of the individual townhouse are important to the architectural integrity of this planned unit development. No change of paint or stain colors in permitted. Repainting shall be with the same brands of paint or stain and with the same colors as originally applied.

## **ARTICLE XI GENERAL PROVISIONS**

**SECTION 1. Duration.** The Covenants and Restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument terminating these Covenants and Restrictions signed by the then Owners of seventy-five percent (75%) of the Lots has been recorded prior to the commencement of any ten (10) year period.

**SECTION 2. Amendments.** These Covenants and Restrictions may be amend-

ed during the first twenty (20) years from the date of the Declaration, by an instrument signed by not less than ninety percent (90%) of the Lot Owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

**SECTION 3. Notices.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

**SECTION 4. Construction Easement.** A. If any portion of an exterior wall of a residence is situated within three feet of any adjoining Lot line, a valid easement shall and does exist, three feet in width along the adjoining Lot and adjacent to the said Lot line which easement may be used for the purpose of construction, reconstruction and maintenance of said exterior wall of a residence that is situated within three feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of said easement.

**B. Encroachment Easement.** If any exterior wall of a residence shall be constructed in a manner in which it encroaches upon any other Lot or upon the Common Area, a valid easement shall exist for such structure for as long as such structure shall exist, and no Member or the Association shall interfere with such easement.

**SECTION 5. Maintenance Easement.** If any portion of a residence encroaches upon the Common Properties or upon the easement of any adjoining Lot established under the provisions of Section 4 above, a valid easement on the surface and for sub-surface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

**SECTION 6. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any

Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 7. **Severability.** Invalidation of any one of these Covenants or Restrictions by judgment or court order shall in no wise affect any

other provisions which shall remain in full force and effect.

SECTION 8. **Water Service.** Some members may have water service provided to their Lot within the properties served from the Association's common water meters. Members shall be charged a pro rata portion of the total domestic water used. All monies received by the Association for this water charge (and sewer charge if included on the water bill) shall be deposited in a separate Association Account to be held and disbursed only for payment of these charges to the appropriate governmental entity. This Account shall be treated as a "Trust Account" and not as an asset or liability of the Association.

SECTION 9. **Separate Bank Account.** The Treasurer will establish a bank account separate from the general account to be used exclusively for monies collected for the payment of water and sewer charges and for no other purpose.

SECTION 10. **FHA/VA Approval.** As long as there is a Class B Membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Properties, and amendment of this Declaration of Covenants and Restrictions. Approval by the Federal Housing Administration under any of the above set forth actions shall be made by the District Director of the Federal Housing Administration in Denver, Colorado.

The Writer Corporation  
A Colorado Corporation

By: \_\_\_\_\_ /s/  
Executive Vice President



**EXHIBIT A**

Lots 1 through 146 and Tracts A and B,  
Block 1,  
Southpark Subdivision, Filing No. 7,  
City of Littleton,  
County of Arapahoe,  
State of Colorado.

**EXHIBIT B**

Section 32 and the West 1/2 of Section 33,  
Township 5 South,  
Range 68 West of the 6th P.M.,  
City of Littleton,  
County of Arapahoe,  
State of Colorado.

**FIRST AMENDMENT TO THE  
DECLARATION OF COVENANTS  
AND RESTRICTIONS OF  
SOUTHPARK HOMEOWNERS  
ASSOCIATION NUMBER 2**

WHEREAS the Declaration of Covenants and Restrictions of Southpark Homeowners Association Number 2 ("Declaration") was filed in the office of the Arapahoe County Clerk and Recorder on the 20th day of July, 1982, at Reception No. 2187628, Book 3664, Page 531; and

WHEREAS part of Article VIII, Section 1 and all of Article X of the Declaration does not permit any change in external paint colors; and

WHEREAS the architectural integrity of Southpark Homeowners Association Number 2 ("Association") has been maintained by coordination of color, design and style among the units, which are grouped accordingly; and

WHEREAS there exists one grouping of units in which 206 of 227 Owners desire to change an outdated color which adversely affects the overall appearance of the rest of the development; and

WHEREAS it is believed that Owners within the original groupings should be able to initiate a request for color changes, provided adequate checks and balances are implemented to ensure that the architectural integrity of the development is maintained and the original intent of the Declaration is preserved; and

WHEREAS Article XI, Section 2 provides that at least ninety percent (90%) of the Lot Owners must approve any amendment to the Declaration within the first twenty (20) years; and

WHEREAS at least ninety percent (90%) of the Lot Owners have executed an instrument consenting to this amendment;

NOW, THEREFORE, the Declaration of Covenants and Restrictions is hereby amended as follows:

1. Article VIII, Section 1 is hereby amended by the deletion of the clause indicated below:

**SECTION 1. Review by the Committee.** No structure, whether residence, accessory building, tennis court, swimming pool, antennae (on a structure or on a Lot), flagpoles, fences, walls, exterior lighting or other improvements, shall be constructed or maintained upon any Lot and no alteration or repainting to the exterior of a structure, ~~with other than the original house paint colors,~~ shall be made and no landscaping performed unless complete plans, specifications, and Lot plans therefore, showing the exterior design, height, building material and color scheme thereof, including paint manufacturer and paint chip, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing, walls and windbreaks, and the gra-

ding plan shall have been submitted to and approved in writing by the Architectural Control Committee, and a copy of such plans, specifications, and Lot plans as finally approved deposited with the Architectural Control Committee. When furnished, only those house numbers and mail boxes which are installed by the Developer shall be used and maintained in the properties. The Architectural Control Committee shall be composed of three or more

Representatives appointed by the Board of Directors of The Association.

2. Article X is hereby amended by deletion of the following sentence:

~~\_\_\_\_\_ No change of paint or stain colors is permitted. Repainting shall be with the same brands of paint or stain and with the same colors as originally applied.~~

and by addition of the following language:

"Changes of paint color in a color group may be requested by a Lot Owner(s) within that group. A change shall not be implemented without recommendation of the Architectural Control Committee and written approval by the Board of Directors. The Architectural Control Committee and the Board of Directors shall not approve such request unless it is determined that such a change will ensure the architectural integrity of the development. Upon

obtaining these written approvals, further written consent of two-thirds (2/3) of the Owners of units within the color grouping must be obtained."

THE UNDERSIGNED hereby certify that the foregoing First Amendment to the Declaration of Covenants and Restrictions of Southpark Homeowners Association Number 2 was adopted and approved, by separate written instrument, by at least ninety percent (90%) of the Lot Owners, in accordance with Article XI, Section 2 of the Declaration.

DATED this 17th day of April, 1994.

SOUTHPARK HOMEOWNERS  
ASSOCIATION NUMBER 2

By: \_\_\_\_\_ /S/ \_\_\_\_\_ President

Attest: \_\_\_\_\_ /S/ \_\_\_\_\_ Secretary

[SEAL]

**INFORMATION BROCHURE FOR  
SOUTHPARK HOMEOWNERS  
ASSOCIATION NUMBER 2**

For the convenience of Homeowners in the SOUTHPARK FILING NO. 7 Subdivision, a non-profit corporation known as SOUTHPARK HOMEOWNERS ASSOCIATION NO. 2 has been organized to own, operate and manage the Common Area and improvements thereof in SOUTHPARK SUBDIVISION FILING NO. 7. The Common Area and improvements consist of

approximately nineteen (19) acres of land with surfaced paths, parking areas, lawn areas, landscaping. All of the Common Area with landscaping, lawn areas, and other above listed improvements will be conveyed to the SOUTHPARK HOMEOWNERS ASSOCIATION NO. 2 in fee simple with marketable title and free and clear of all liens and encumbrances, except improvements adjacent to homes under construction, prior to the sale of the first Lot. Every individual Homeowner has the right to use the Common Area and improvements subject to reasonable rules and regulations established and controlled by the developer, The Writer Corporation, initially, and then by the Owners themselves through the Board of Directors of the Homeowners Association.

The individual Owners are Class A members and are entitled to one vote for each Lot they own. The developer is a Class B member and is temporarily entitled to three votes for each Lot it owns. The Class B membership terminates and is converted to Class A membership upon the earliest happening of either of the following events:

1. When that total votes in the Class A membership equal the total votes in the Class B membership; or
2. JUNE 1, 1992.

The Association will meet annually, at which meeting members will elect Directors to the Board of Directors to fill the vacancies resulting from the expiration of prior terms of office on said Board. At such meeting, the officers of the Association will present a financial report and other business will be conducted according to the agenda for such annual meeting. Special meetings may be called at any time by the president, the Board of Directors, or upon written request of the members entitled to vote one-fourth of the votes of the Class A membership.

The Board of Directors elects the officers of the Association who direct day-to-day business of the Association. The Association is responsible for the upkeep of the Common Facilities, lawn care, bookkeeping and accounting functions, sidewalk maintenance, collection of the assessment fees from the members, preparing the annual budget, providing for an annual audit, insuring the

improvements on the Common Area, and related duties.

The Association has the right to charge reasonable fees for the use of the Common Area and the recreational facilities and to establish and enforce reasonable rules governing the use thereof.

In order to protect property values, aesthetics and to provide assurance that future developments, additions and changes will conform and be harmonious with the external design and location of existing structures, the Owners through their Board of Directors, will establish a Committee for Architectural Control. The approval of the committee will be required before additions or changes can be made to any building exterior, fences, hedges, walls or other exterior structures.

Each Owner and the developer will be assessed a monthly fee, which fee is established by the Board of Directors: The maximum monthly fee established by the Covenants and Restrictions is \$80.00, adjusted in conformance with the Consumer Price Index (CPI) published by the U.S. Department of Labor. Only by vote of two-thirds of each class of members who are voting in person or by proxy at a meeting duly called for that purpose may the ADJUSTED maximum monthly assessment be increased. The Board of Directors may fix the monthly assessment at any amount not in excess of the maximum. Presently, the monthly assessment is \$45.00 per Lot. Such monthly assessment may be now or hereafter collected on a monthly basis accordingly as provided in the By-Laws.

In addition to the monthly assessments, the Association may levy, in any assessment year, a special assessment for that year only for construction or repair of capital improvements on the Common Area. Any such special assessment requires the assent of two-thirds of each class members voting in person or by proxy at a meeting duly called for considering such special assessment.

Since it is important that each Owner pay his assessments when due, procedures for the enforcement and collection of assessments have been established. Each assessment shall be the personal obligation of the Owner concerned and also a lien will be created against an Owner's Lot for the amount of any delinquent assessment. After an assessment is delinquent for over thirty (30) days, it bears

interest at the rate of eighteen percent (18%) per annum. This lien is for the benefit of the Association and can be foreclosed. In addition, the Association can file an action in court to collect the amount of the assessment plus costs and attorney fees without foreclosing the lien.

Additional residential property and Common Area may be annexed with consent of two-thirds of each class of members. Subject to approval by the Federal Housing Administration or the Veterans Administration while there is a Class B membership, the developer may annex additional residential property and Common Area within the lands described "Section 32 and west 1/2 of Section 22, Township 5 South, Range 68 west of the 6th p.m., State of Colorado" until June 1, 1992, without consent of the individual Homeowners or the Association. Annexation, consolidation and merger would result in an increase of membership in the Association.

Dissolution of the Association, merger or consolidation requires written assent of two-thirds (2/3) of each class of members.

Those members (Lots) serviced by Association water meters, (if any) and private drives (if any) will be assessed an additional monthly fee in addition to the monthly dues. This amount is as established by the Board of Directors to cover the Association's costs in providing these services.

Common Property improvements (irrigation systems, landscaping, fencing, ground cover, pools, tennis courts, club buildings, walks, drives, area lighting, if any) will be installed only after homes on adjoining Lots are completed, only if required building, gas, water, sewer permits are available and issued, and only as designed and constructed by The Writer Corporation at its sole discretion.